

1 **NEXUS BANKRUPTCY**  
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6 **UNITED STATES BANKRUPTCY COURT**

7 **CENTRAL DISTRICT OF CALIFORNIA**

8 **LOS ANGELES DIVISION**

9 In re:

10 EDMOND CHOUTEAU,

11 Debtor.

Case No.: 2:22-bk-12229-WB

Chapter 13

12 **DEBTOR'S MOTION FOR HARDSHIP  
DISCHARGE PURSUANT TO 11 U.S.C.  
§1328(b)**

13 [no hearing required unless requested  
under LBR 9013-1o)]

14

15

16 **TO THE HONORABLE JULIA W. BRAND, UNITED STATES BANKRUPTCY  
17 JUDGE, THE CHAPTER 13 TRUSTEE, AND ALL INTERESTED PARTIES:**

18 PLEASE TAKE NOTICE that Debtor, EDMOND CHOUTEAU, will and hereby does  
19 move the Court for an order granting a hardship discharge. This motion is made under  
20 Bankruptcy Code section 1328(b) on the grounds that the Debtor's inability to complete his Plan  
21 is due to circumstances beyond his control, that the funds actually distributed on account of each  
22 allowed unsecured claim is not less than would have been paid had the case been filed under  
23 Chapter 7, and modification is not feasible. This motion is based on all pleadings, papers and  
24 records in this action, on the attached memorandum of points and authorities and on the  
25 declaration of Edmond Chouteau.

26 Pursuant to LBR 9013-1(o), this Motion may be granted without a hearing. If you wish to  
27 oppose this Motion, you must file and serve a written response and request for hearing with the  
28

1 Court no later than 14 days after the date stated on the Proof of Service of this Motion, plus 3  
2 additional days if you were served by mail.

3 Failure to timely file and serve a written response to this Motion may be treated as a  
4 waiver of your right to oppose the Motion and the Court may grant the relief requested herein  
5 without further notice of a hearing.

6

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 11 U.S.C. § 1328(b) provides that, at any time after the confirmation of a Chapter 13 plan  
9 and after notice and a hearing, the Court may grant a discharge to a debtor who has not  
10 completed plan payments if:

- 11 1. The debtor's failure to complete such payments is due to circumstances for which the  
12 debtor should not justly be held accountable;
- 13 2. The value, as of the effective date of the plan, of property actually distributed under the  
14 plan on account of each allowed unsecured claim is not less than the amount that would  
15 have been paid on such claim if the estate had been liquidated under Chapter 7; and
- 16 3. Modification of the plan is not practicable.

17 Courts have interpreted § 1328(b) as requiring a fact-specific analysis. A hardship  
18 discharge is an equitable remedy designed to address unforeseen, insurmountable obstacles to  
19 plan completion, such as illness, disability, or other serious disruption to income.

20

21 **A. Debtor's Failure to Complete Payments Is Attributable to**  
22 **Extraordinary Circumstances Beyond His Control**

23 Debtor's plan was confirmed on December 1, 2022. Shortly thereafter, he suffered a  
24 cascade of debilitating medical setbacks related to Charcot foot, a degenerative musculoskeletal  
25 condition. Despite severe physical limitations, he returned to work prematurely against medical  
26 advice in order to provide for his family. His efforts worsened the condition, ultimately leading

1 to a fracture, multiple rounds of casting, warnings of potential amputation, and a major surgery  
2 in late 2023 that left him bedridden through early 2024.

3 During this time, Debtor's income was dramatically reduced. State disability payments  
4 were limited in amount and duration. His permanent disability application was delayed due to the  
5 surgical complications and was not approved until July 2024. For nearly a year, Debtor survived  
6 with no income at all. Despite this, he continued to make plan payments as long as he could. His  
7 inability to complete the 60-month term is directly attributable to a severe and progressively  
8 disabling medical condition, and not due to any willful act, neglect, or misuse of the process.  
9 These circumstances fall squarely within the types of events contemplated by § 1328(b)(1).

10

11 **B. Distributions to Unsecured Creditors Are Not Less  
12 Than a Hypothetical Chapter 7 Liquidation**

13 The confirmed Chapter 13 plan, as reflected in the confirmation order, required that  
14 unsecured creditors receive not less than a 20% dividend, amounting to \$10,111. As of the date  
15 of this motion, more than \$10,111 has been paid to unsecured creditors under the plan.  
16 During the life of the case, Debtor's spouse, Tesha Chouteau, received a modest inheritance.  
17 Rather than retaining those funds, she paid them into the Chapter 13 plan in order to ensure that  
18 their vehicles would be paid through the plan and that unsecured creditors would receive at least  
19 as much as they would have in a Chapter 7 liquidation. That inheritance has now spent on plan  
20 payments and ordinary living expenses.

21 Accordingly, the value of distributions made to unsecured creditors is not less than what  
22 they would have received in a Chapter 7 liquidation. The attached Trustee's pay history shows  
23 that the amount distributed to unsecured creditors satisfies the Chapter 7 liquidation threshold  
24 required under 11 U.S.C. § 1328(b)(2). Courts have consistently held that full compliance with  
25 the Chapter 7 liquidation test is a precondition to hardship discharge relief.

### **C. Modification of the Plan Is Not Practicable**

Section 1328(b)(3) requires that plan modification be impracticable. Debtor's current income consists of permanent state disability payments that are significantly below his prepetition earnings. As of the date of this motion, his household has no material disposable income, and updated Schedules I and J (filed concurrently) reflect a monthly shortfall. Debtor has no realistic ability to increase income.

## CONCLUSION

Debtor has made every good faith effort to comply with the terms of his plan but is no longer able to do so due to circumstances beyond his control. He has satisfied the statutory requirements of 11 U.S.C. § 1328(b), and a hardship discharge is appropriate.

For the foregoing reasons, Debtor respectfully requests that the Court enter an order granting him a hardship discharge.

## NEXUS BANKRUPTCY

Date: July 25, 2025

/s/Benjamin Heston

BENJAMIN HESTON,  
Attorney for Debtor

## **DECLARATION OF EDMOND CHOUTEAU**

I, Edmond Chouteau, declare as follows:

1. I am one of the Debtors in the above-referenced bankruptcy proceeding. I have personal knowledge of all matters stated herein and if called to testify I could competently testify thereto.
2. I filed this bankruptcy case on April 20, 2022, in good faith and with the sincere intention of repaying my creditors to the best of my ability. My Chapter 13 plan was confirmed on December 1, 2022.
3. Prior to filing, I had been experiencing significant financial strain due to drastically reduced work hours at the beginning of the COVID-19 pandemic. My income was reduced to nearly a third of what it had been, and I relied on credit to pay for basic living expenses.
4. In October 2020, I was diagnosed with Charcot foot, a degenerative condition affecting the bones and joints in my foot. I was placed in a cast and instructed not to bear weight on the foot. I remained in a cast for most of the following year and was on state disability during this period.
5. Because my income during the early part of the pandemic was low, my disability benefits were significantly reduced. In August 2021, those benefits expired, and rather than endure 10–12 months of delay in applying for permanent disability, I went back to work against medical advice. I had no other choice.
6. I worked intermittently through the end of 2022, taking short medical leaves to allow my foot to rest. In November 2022, I broke the main bone in my foot while walking and was placed in a cast again. At that time, I was warned that I had caused further permanent damage and risked amputation.
7. Despite these setbacks, I continued to make my plan payments for as long as I could. In April 2023, I applied for permanent state disability benefits. In October 2023, I

1 underwent a surgery intended to improve my condition. That surgery led to serious  
2 complications that left me bedridden through January 2024.

3 8. My disability benefits stopped during this time, and I had no income for nearly nine  
4 months. In July 2024, I was finally approved for permanent disability. My current income  
5 is significantly lower than what I earned when the plan was confirmed.

6 9. During this case, my wife, Tesha Chouteau, received a modest inheritance. We used the  
7 full amount to support our family and to pay into the plan so that our vehicles would be  
8 paid off and creditors would receive at least as much as they would have in a Chapter 7.

9 10. I am now permanently disabled and physically unable to return to my former  
10 employment. I have made every effort to meet my obligations under the plan. My  
11 household has no disposable income, and it is not practicable to further modify the plan.

12

13 I declare under penalty of perjury under the laws of the United States that the foregoing is  
14 true and correct.

15 Date: July 25, 2025

16   
EDMOND CHOUTEAU

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

3090 Bristol Street #400  
Costa Mesa, CA 92626

A true and correct copy of the foregoing document entitled (specify): **DEBTOR'S MOTION FOR HARDSHIP DISCHARGE PURSUANT TO 11 U.S.C. §1328(b)** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):**

Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 7/28/2025, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Nancy K Curry (TR) TrusteeECFMail@gmail.com  
Dane W Exnowski dane.exnowski@mccalla.com, bk.ca@mccalla.com, mccallaecf@ecf.courtdrive.com  
Kirsten Martinez Kirsten.Martinez@bonialpc.com, Notices.Bonial@ecf.courtdrive.com  
Mukta Suri Mukta.Suri@mccalla.com  
United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov  
Fanny Zhang Wan Fanny.Wan@mccalla.com, mccallaecf@ecf.courtdrive.com

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) 7/28/2025 I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Judge Julia W. Brand  
255 E. Temple Street  
Suite 1382 / Courtroom 1375  
Los Angeles, CA 90012

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed (state method for each person or entity served):

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

7/28/2025

Date

Benjamin Heston

Printed Name

/s/Benjamin Heston

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Ally Bank c/o AIS Portfolio Services 4515 N. Santa Fe Ave, Dept APS Oklahoma City, OK 73118-7901	Lakeview Loan Servicing LLC M&T Bank Bankruptcy Department PO Box 840 Buffalo, NY 14240-0840	Wakefield & Associates PO Box 58 Fort Morgan, CO 80701-0058
Ally Financial PO Box 380901 Minneapolis, MN 55438-0901	Loandepot.com, LLC Attn: Bankruptcy 5465 Legacy Drive, Suite 200 Plano, TX 75024-3190	Wells Fargo Bank, N.A. PO Box 10438, MAC F8235-02F Des Moines, IA 50306-0438
American Express National Bank c/o Becket and Lee LLP PO Box 3001 Malvern, PA 19355-0701	Logix Federal Credit Union 27918 Franklin Parkway Valencia, CA 91355-6019	Wescom Credit Union Attn: Bankruptcy 5601 East La Palma Avenue Anaheim, CA 92807-2109
Bank of America PO Box 982238 El Paso, TX 79998-2238	LVNV Funding, LLC Resurgent Capital Services PO Box 10587 Greenville, SC 29603-0587	
Bank of America c/o Harris & Zide, LLP 1445 Huntington Drive South Pasadena, CA 91030-4553	Office of General Counsel, U.S. Department of Housing and Urban Development – Region IX One Sansome Street, Suite 1200 San Francisco, CA 94104-4430	
Capital One Attn: Bankruptcy PO Box 30285 Salt Lake City, UT 84130-0285	PayPal Credit PO Box 5138 Lutherville Timonium, MD 21094-5138	
Cavalry SPV I, LLC PO Box 4252 Greenwich, CT 06831-0405	Pinnacle Service Solutions LLC 4408 Milestrip Rd #247 Blasdell, NY 14219-2553	
Citibank PO Box 790034 St. Louis, MO 63179-0034	Quantum3 Group LLC agent for Crown Asset Management LLC PO Box 788 Kirkland, WA 98083-0788	
Discover Bank Discover Products Inc. PO Box 3025 New Albany, OH 43054-3025	Synchrony Bank PO Box 960061 Orlando, FL 32896-0061	
Harley-Davidson Credit Corp 3160 Crow Canyon Place, Suite 215 San Ramon, CA 94583-1110	Target / TD Bank USA PO Box 1470 Minneapolis, MN 55440-1470	
Harley-Davidson Credit Corp PO Box 9013 Addison, TX 75001-9013	Victoria's Secret / Comenity Bank PO Box 182273 Columbus, OH 43218-2273	
Jefferson Capital Systems LLC assignee for Nordstrom, Inc. PO Box 7999 Saint Cloud, MN 56302-7999	Vituity – Nevada (Koury & Partners) PLLC c/o Wakefield & Associates LLC PO Box 51272 Knoxville, TN 37950-1272	
Lakeview Loan Servicing, LLC / Flagstar Bank, NA Bankruptcy Department 5151 Corporate Drive Troy, MI 48098-2639		